

In re ) Fair Hearing No. 11,058  
 )  
Appeal of )

The petitioner appeals the Department of Social Welfare's decision reducing the amount of his A.N.F.C. benefits based upon his receipt of unemployment compensation benefits.

1. On January 2, 1992, the petitioner, who had recently lost his job, applied for A.N.F.C. benefits for himself, his wife, and his two children. He was found eligible for \$709.00 per month based on no other source of income.

3. Based on this information, the petitioner's

A.N.F.C. grant was recalculated including the \$392.00 received for January from unemployment compensation as unearned monthly income. That income was deducted from his \$709.00 monthly benefit and he was determined to be eligible for \$317.00 per month beginning March 1, 1992. A notice by this change was mailed to the petitioner on February 13, 1992.

4. For a time, the petitioner received no further unemployment checks. However, on March 30, 1992, the petitioner was notified that his benefits had been continued and he received two more checks of \$196.00 each for February. He has continued receiving further unemployment compensation checks since that time on a regular basis. The Department has not attempted to recalculate the petitioner's eligibility since his benefits are frozen at their original level pending the outcome of this appeal.

5. The petitioner presented evidence that \$4,150.00 he earned as a federal census taker in the quarters ending March, June, and September of 1990 was considered a qualifying wage for purposes of his unemployment compensation benefits. However, the petitioner admitted he also held many other jobs while in California and he could present no clear evidence as to whether or not wages from any of those jobs were also being used to determine his eligibility.

6. The petitioner also presented evidence showing that the income of temporary census employees in 1990 was

excluded from inclusion as earned income in California as the result of a temporary demonstration project to determine A.N.F.C. and Food Stamp benefits from March 1 to August 31, 1990. The Department agreed that it had a similar provision in 1990 which would have excluded his census income.<sup>1</sup> The stated purpose of this California program was to give persons on public benefits an incentive to work in these temporary jobs.

7. The petitioner does not dispute the accuracy of the Department's computations or the time periods used. His sole quarrel with the Department is its offsetting of his A.N.F.C. benefits with the unearned income from unemployment compensation, in general, and, in particular, the unemployment compensation he claims is based upon his census employment.

#### ORDER

The Department's decision is affirmed.

#### REASONS

The general issue of the legality of offsetting unemployment benefits against A.N.F.C. benefits has already been raised by this petitioner and disposed of by the Board in Fair Hearing No. 10,378. The petitioner asks the Board to note the Department of Health and Human Service's poverty income guidelines issued February 20, 1991 on page 6859 of the Federal Register which sets the poverty line for a family of four at \$13,400.00. Until his combined income reaches that point, the petitioner argues that the state may

not reduce his A.N.F.C. benefits. However, as has been pointed out in the Board's prior decision, the state has not agreed, nor is it required to agree, to provide benefits to citizens to take them up to the poverty line. The reasons set forth for the prior decision in Fair Hearing No. 10,378 should be adopted by the Board and incorporated herein as reason for upholding the Department's inclusion of unemployment compensation as countable unearned income for A.N.F.C. purposes.

The petitioner's second argument is that unemployment compensation should be excluded if it is based on qualifying wages which wages themselves were excluded income under the A.N.F.C. regulations. It is not at all clear that the petitioner's unemployment is based solely on the census income but, even assuming that it is, the second argument is equally without merit. The petitioner can point to no exception in the regulations excluding unemployment compensation based on the type of underlying qualifying wage. Although the original temporary income may have been excluded as an incentive to work, the petitioner presented no evidence that the incentive extended to future unemployment benefits stemming from this work. It is doubtful that the state's goal of improving employability in this income exclusion program could be served by excluding unemployment benefits. As the Department's decision in this matter appears to be based on its valid regulations, its decision must be upheld. 3 V.S.A. § 3091(d).

FOOTNOTES

<sup>1</sup>The text of Vermont's Census income exclusion project is as follows:

Census earnings for ANFC assistance units will:

- (a) Be excluded income;
- (b) Not count towards the 185 percent test; and
- (c) Not make an assistance unit a Monthly Reporter if the Census earnings are the only earned income.

The hours worked in Census employment by the parent who is the principal earner in an ANFC-UP assistance unit will not be counted towards the 100-hour standard.

1115 Demonstration Project  
Participation PP & D  
Interpretive Memo 4/19/90  
Facing Page W.A.M. 9 2255

# # #